

ENTERED

April 08, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

UNITED STATES OF AMERICA,	§	
	§	
VS.	§	CIVIL ACTION NO. 7:18-CV-338
	§	
27.36 ACRES OF LAND, MORE OR	§	
LESS, <i>et al</i> ,	§	
	§	
Defendants.	§	

ORDER

Before the Court is the “Unopposed Motion to Dismiss Party Pursuant to Fed. R. Civ. P. 71.1(i)(2)”¹ filed by the United States of America (“United States”). The United States requests that the ‘unknown heirs of Hilda Cavazos’² be dismissed as a party.³

The United States indicates that this is not a proper party and thus should be dismissed because the heirs of Hilda Cavazos have now all been identified and are all parties to the case.⁴ Hilda Cavazos owned an interest in the subject property and died intestate on July 7, 2004; her interest passed to her children: Gloria Dalia Guerra, Dora Elia Guerra, Pablo Guerra, Jr., and Juan Lino Guerra.⁵ Dora Elia Guerra died intestate in 2010 and her share passed to her only child: Gloria Diana Saucedo.⁶ Thus, all heirs of Hilda Cavazos who have an interest in the property have filed waivers of service with the Court and therefore are all parties to this action pursuant to Federal Rule of Civil Procedure 4(d)(4).⁷

¹ Dkt. No. 71.

² See Dkt. No. 2-1 p. 17 (Schedule G, Declaration of Taking).

³ Dkt. No. 71.

⁴ Dkt. No. 71 p. 2, ¶ 4.

⁵ See Dkt. No. 71-1 (Affidavit of heirship concerning Hilda Cavazos).

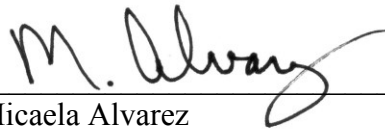
⁶ Dkt. No. 71-2 (Affidavit of heirship concerning Dora Elia Guerra).

⁷ See Dkt. Nos. 56, 57, 63, 69; see also Dkt. No. 52 (Amended Disclosure of Interested Parties).

Under Federal Rule of Civil Procedure 71.1(i)(2), “[t]he court may at any time dismiss a defendant who was unnecessarily or improperly joined.” The Court may dismiss any defendant who no longer has an interest in the property to be condemned.⁸ Accordingly, all claims against the Unknown Heirs of Hilda Cavazos are **DISMISSED WITHOUT PREJUDICE**.⁹ Further, the Clerk shall terminate the Unknown Heirs of Hilda Cavazos as a defendant in this case.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 8th day of April, 2019.



Micaela Alvarez
United States District Judge

⁸ Fed. R. Civ. P. 71.1(i), 1951 Notes of Advisory Committee on Rules.

⁹ See Fed. R. Civ. P. 71.1(i)(3).